

In the Matter of Merchant Mariner's Document No. Z-58966
Issued to: RICARDO MOLINA

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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RICARDO MOLINA

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 4 December, 1952, an Examiner of the United States Coast Guard at New York City revoked Merchant Mariner's Document No. Z-58966 issued to Ricardo Molina upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as messman on board the American SS SANTA MARIA under authority of the document above described, on or about 15 October, 1952, while said vessel was at Cristobal, C.Z., he wrongfully had in his possession a certain narcotic substance; to wit, one marijuana cigarette.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Appellant was represented by another seaman who also acted as interpreter. Appellant entered a plea of "guilty with an explanation" to the charge and specification proffered against him. He stated that he had obtained three marijuana cigarettes from a young native while ashore at Cristobal, smoked about half of one of the cigarettes after drinking in a bar, and forgot about the other two cigarettes. Appellant then requested that his plea be changed to "guilty."

Thereupon the Investigating Officer made his opening statement and Appellant made a statement which was not under oath. He stated that he knew the three cigarettes were marijuana but he put two of them between his sock and shoe after smoking half of the third one.

At the conclusion of the hearing, having given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by plea. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-58966 and all other licenses, certificates of service and documents issued to this Appellant by the United States Coast Guard or its predecessor authority.

From that order, this appeal has been taken, and it is a request for lenience based upon the hardship brought about through the need of Appellant to support his son and mother, and Appellant's promise to never again commit such an act.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 15 October, 1952, Appellant was serving as messman on board the American SS SANTA MARIA and acting under authority of his Merchant Mariner's Document No. Z-58966.

While ashore at Cristobal on this date, he purchased three marijuana cigarettes and was apprehended with one of the marijuana cigarettes in his possession when he was returning to the ship. He had smoked one of the cigarettes but the third one was unaccounted for. Appellant was fined twenty-five dollars in the Cristobal court for unlawful possession of marijuana.

Appellant has no prior record during approximately fifteen years at sea. He is 42 years of age and has one child by a former marriage.

OPINION

The order of revocation will be sustained in accordance with the constant policy of the Commandant that a seaman's documents will be revoked if he is found guilty of any narcotics offense. The seriousness of the offense prevents any reduction in the order despite the personal hardship of Appellant, his frankness at the hearing, and his promise not to commit such an offense again.

ORDER

The order of the Examiner dated at New York, New York, on 4 December, 1952, is ~~REVERSED~~ **AFFIRMED**.

Merlin O'Neill
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 20th day of March, 1953.